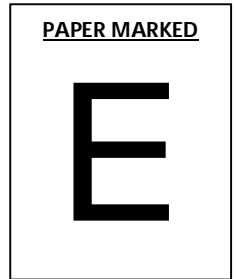


**POLICE AND CRIME
COMMISSIONER FOR
LEICESTERSHIRE**

**ETHICS, INTEGRITY AND
COMPLAINTS COMMITTEE**



Report of: **CHIEF CONSTABLE**

Subject: **DIP SAMPLING OF COMPLAINT FILES**

Date: **FRIDAY 15 MARCH 2019 – 2:00 p.m.**

Author: **ANGELA PERRY, EXECUTIVE DIRECTOR
SIMON HURST, PROFESSIONAL STANDARDS DEPARTMENT**

Purpose of Report

1. The purpose of this report is for members discussion on the findings from the dip sampling of complaint files.

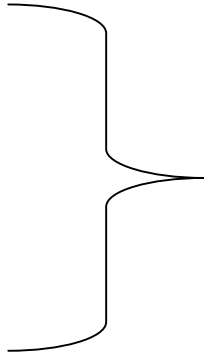
Recommendation

2. It is recommended that members:-
 - (a) discuss the outcome of the dip sampling of complaint files; and
 - (b) consider a theme for the next dip sampling session.

Background

3. The Police and Crime Commissioner has a responsibility for ensuring that the Chief Constable is applying police regulations in the handling of complaints. The Police and Crime Commissioner fulfils this statutory responsibility by receiving reports from the Chief Constable to the Strategic Assurance Board and by the members of the Ethics, Integrity and Complaints Committee dip sampling of complaint files and reporting on their findings.
4. Mr Mark Peel, Ms Karen Chouhan and Ms Lynne Richards undertook dip sampling of complaint files on Tuesday 6 November 2018 (Appendix A) and Mr Mark Peel, Ms Lynne Richards and Professor Cillian Ryan on 28 January 2019 (Appendix B). The outcome of the dip-sampling is outlined in the appendices to the report.

APPENDIX A

<u>Category of Complaint</u>	<u>File No.</u>	<u>Comments by Member</u>	<u>Force Response</u>
IOPC Non Referrals	MI/190/18 MI/186/18 MI/226/18 MI/207/18 MI/216/18 MI/201/18 MI/199/18 MI/195/18 MI/168/18 MI/169/18 MI/167/18	 <p style="text-align: center;">Agree with decisions taken re no referral</p>	Noted Thank you.
Internal Conduct matter	CM/20/17	No issues detected. A full and fair investigation is presented, with clear explanation of outcome.	Noted Thank you.
Internal Conduct matter	CM/18/17	Dismissal of an officer convicted of sexual assault. <u>Note</u> see paragraph 8 of DS Ball's Assessment. Follow up of review of contested evidence being progressed by [REDACTED] [REDACTED] – what are the results of this?	Review completed August '18 One case identified no indication that [REDACTED] gave evidence at the initial trial resulting in conviction. (Email attached).
Internal Conduct matter	CM/20/18	Proportionate investigation of a conduct matter with regard to all 'off duty' officer. Dealt with via letter of apology and management action.	
Public complaint – investigation discontinued	CO/29/18	Complaint re incorrect cautioning of a person attending for voluntary interview. Held sub-judice during criminal proceedings. Complainant failed to confirm wish to proceed subsequent to court. Therefore closed NFA.	Noted Thank you.

Breach Code B PACE	CO/44/18	<p>I was unable to read the full details of this complaint as they 'scroll' off the bottom of the page on file. Otherwise the action taken here, and advice sent to the complainant are appropriate.</p> <p>On the basis of the limited information provided in this file, I am not content that the complaint made has been adequately investigated. An allegation is made that a warrant used to gain access to a property has been altered to remove a required signature strip – and that hence the warrant is unlawful. This is a serious issue, and I would wish to be advised</p> <p>(i) Has this warrant been adjusted in the manner suggested? (ii) Was it therefore a legal warrant as used to gain access to the complainants property; and (iii) What steps have been taken to check that this is a 'one off' rather than endemic issue across the force?</p> <p>The matter is potentially of such a serious nature, with respect to the actions alleged of two individual officers, and for the wider security of the force use of warrants, that it is in my opinion, unsatisfactory to NFA this complaint due to inaction on the part of the complainant. I would expect a fuller explanation and rationale for this course of action to be presented to the Ethics and Integrity Committee at the earliest opportunity.</p>	<p>Noted Thank you.</p> <p>Noted. However the background to this matter is the complainant was seeking to raise an issue regarding the conduct of officers during the execution of a Town & County Planning Warrant by Charnwood Council re an incident that had occurred some 15 months before the first complaint submission. Complaint received 3 May 2018, incident occurred as detailed by the complainant as 18 January 2017. Matter was subject to disapplication following recording as in accordance with PRA 2002 & IOPC Statutory Guidance 2015 Para 4.7. Warrant's authenticity confirmed via Court. (See attached details)</p>
Lack of Fairness/oppressive conduct/breach of Code C PACE/neglect of duty	CO/61/18	<p>A historic matter investigated after complaint, in which consent to local resolution was withheld. Given the above it would seem this complaint was dealt with appropriately and professionally, from the evidence on file.</p>	<p>Noted Thank you.</p>
Code C PACE/oppressive conduct/corrupt practice/discriminatory	CO/30/18	<p>Appropriate ref of complaint to IOPC. Response that local investigation was appropriate without IOPC involvement. The file evidences that there is no corroboration of basic assertion that right to make a complaint had been withheld. The complaint was therefore appropriately disapplied with</p>	<p>Noted Thank you.</p>

behaviour/other irregularity		no good reason provided by complainant for extended delay.	
Corrupt practice	CO/477/17	No issues detected	Noted Thank you.
Neglect of duty/other irregularity in procedure/incivility, impoliteness, intolerance	CO/521/17	On the basis of the information provided I am not satisfied that issue (3) 'officer provided misleading information' has been adequately OR fully investigated. [REDACTED] (letter 15/05/18) notes '3. I do not believe that the D.C has provided (complainant) with any misleading information.' But [REDACTED] does not evidence how and what basis he has come to that belief. The complainant makes allegation that whilst being told by the DC that there was no CCTV evidence, that a private detective employed by complainant had viewed this AND that the existence of the CCTV images was confirmed by DCI Trott. There is no evidence that [REDACTED] checked these issues – and thus the possibility remains that the DC did mislead or lie directly to the complainant. I would expect this matter to be checked by an appropriately senior and independent officer – with the result be presented to the Ethics and Integrity Committee as soon as possible.	To address complainants concerns scene subsequently attended by DS [REDACTED]. H2H and CCTV trawl completed. Alleges unknown PI has CCTV footage - to date this has not been produced or the PI identified by complainant. [REDACTED] corroborates OIC's account of available evidence at scene. Comment by the complainant that he has 100K available to ensure his complaint is successful. (Niche and occurrence records included).
Other irregularity in procedure	CO/79/18	No issues detected.	Noted Thank you.
Other irregularity in procedure	CO/65/18	Letter from [REDACTED] 23/07/18 notes enclosure of copy of an 'action plan' along with letter to complainant. I could not find copy of the action plan on file – and hence am unable to give a view as to whether the outcome is appropriate or proportionate.	Action Plan is available, copy on file and was forwarded with closure letter.
Irregularity in evidence/oppressive conduct/unlawful	CO/377/17	Noted next management action was recommended for [REDACTED] and [REDACTED]. I was left wondering if [REDACTED] needs refresher training as misreading outcomes and then passing that info on is potentially	[REDACTED] accepted she made a genuine error and as a result has received management action from her

<p>arrest/breach Code C PACE/corrupt practice/improper disclosure of info</p>		<p>damaging all round. Refer with outcomes.</p>	<p>line manager. [REDACTED] is now fully conversant with this system. No further training now required.</p>
<p>Improper disclosure of information/oppressive conduct/unlawful arrest/corrupt practice/neglect of duty</p>	<p>CO/43/18</p>	<p>It would have been helpful to have more context re who had made the application to use Claire's law – Otherwise agree with outcomes</p> <p>At some point it may be good for me to revisit guidance to fully understand what 'discontinued' and 'disapplied' mean – I found it difficult to understand without reading and re-reading the correspondence and guidance handbook.</p>	<p>Noted Thank you.</p> <p>Noted Thank you. Agreed regarding revisiting guidance as this would assist understanding.</p>
<p>Oppressive conduct/breach Code B PACE</p>	<p>CO/126/18</p>	<p>Would have been helpful to know why the police entered the complainant's house (on what information). It does say because of firearms and petrol in the flat – but how was this known? Could it have been a vexatious report? Otherwise agree with outcome.</p>	<p>Vulnerable female report to NHS helpline that has petrol in microwave and intends to turn it on and that she has a gun. (Records attached re incident)</p>
<p>Other assault/unlawful arrest</p>	<p>CO/99/18</p>	<p>Agree with outcomes and decisions Was there any truth (in the complainants witness statement) that [REDACTED] went back to the house the next day to plead with the complainant's friend? Was there any follow up re the 'lost' i phone 7? Agree with outcomes and decision</p>	<p>Noted. The details of [REDACTED] returning to the address are contained within the witness statement of [REDACTED] – not the complainant's statement, as is the issue of the IPAD. (Relevant copy attached). As this did not relate to the actual complaint, officer was not asked to comment.</p>

Other neglect of duty/corrupt practice/other irregularity and procedure	CO/35/18	Agree with outcomes and decision	Noted Thank you.
Discriminatory procedure/oppressive conduct/incivility, impoliteness, intolerance.	CO/102/18	No comment	Noted Thank you.
Abuse of Authority Corrupt Practice. Failure in Duty Code C X2/Neglect of Duty/ Lack of fairness/impartiality	CO/371/17	No comment	Noted Thank you.
Neglect of Duty	CO/198/17	No comment	Noted Thank you.
Neglect of Duty Other Irregularity in procedure	CO/48/18	No comment.	Noted Thank you.
Other Assault	CO/296/17	Allegation not upheld – agreed, management action appropriate	Noted Thank you.

APPENDIX B

<u>Category of Complaint</u>	<u>File No.</u>	<u>Comments by Member</u>	<u>Force Response</u>
PSD Non Referral	LEP 0510 2018 Sudden death	<p>No referral to IOPC as there was no evidence that police action was contributory to this sudden death.</p> <p>The deceased known to police in respect of investigation under OP HEDWAY.</p> <p>On basis of information reviewed this would seem the correct decision.</p>	Noted – Thank you
Internal conduct matter	CM/11/18	<p>Not a good story, but clearly management action required. Check?</p> <p>Does this go on record and would it be highlighted if there was a subsequent complaint?</p> <p>What guidance is given to supervisors re bringing 3rd parties to sensitive meeting. In my job we would ask HR to sit in on a meeting of this type – to protect both sides.</p>	<p>Noted. Management Action given and placed on file and attendance for additional diversity training.</p> <p>Recorded on officer's discipline record and is available.</p> <p>The Sergeant met with the PCSO following the information being passed to him via PSD. The objective being to bring the matter to the attention of the PCSO in terms of her overall safety. At that stage there was no requirement for HR attendance as it was a normal supervisory activity.</p> <p>Supervisors are aware of the need to seek support and guidance from their line managers and HR as necessary when dealing with sensitive matters.</p> <p>The Sergeant agreed that he did not plan the meeting particularly well and as received appropriate advice via the Head of PSD.</p>

Internal conduct matter	CM/4/18	Appropriate action taken.	Noted – Thank you
Internal conduct matter	CM/13/18	<p>I have reviewed case and concur with outcomes given, standards of proof and evidence. Would like update on how officers could attend incidence without personal protective equipment (from force xxx perspective), PIP and BIVV viewing procedure and guidance to officers.</p> <p>Finally, that guidance is provided in training i.e. trigger sensitivity and procedures i.e. accidental discharge?</p>	<p>Noted – Thank you.</p> <p>As per the final assessment Opportunities for Organisational learning were identified and instigated. Secondly, PC [REDACTED] subject to management action regarding her attendance at an incident when not in possession of her personal protective equipment. Officer deployed to a priority incident having removed utility belt whilst at station for personal reasons, oversight in that officer left station in a hurry forgetting to put utility belt back on.</p> <p>A review has been completed of the current policy in relation to the implementation of the PIP process following a Taser Discharge. PS [REDACTED] – supporting e-mail attached. The BWV policy is subject of review and is ongoing via an Inspector. The Standard Operating Procedures (SOP's) in relation to both Taser and BWV are to be x referenced.</p> <p>PC [REDACTED] Specialist Firearms officer and Lead Trainer for 'Taser' having been requested to review the incident has provided a statement covering the issue of the Taser discharge. Copy</p>

			<p>attached. This includes the method of 'Handling' a Taser.</p> <p>The comment by PC [REDACTED] in relation to the sensitivity of the Taser 'trigger' is his personal opinion only and not one that is a feature of Taser training – key issue is one 'handling' the weapon as outlined by PC [REDACTED]. PC [REDACTED] makes a comparison between conventional weaponry and that of the Taser. PC [REDACTED] has not received conventional weapons training.</p>
Other assault/mishandling of property	CO/209/18	<p>Complaint around excessive force used during arrest.</p> <p>Latterly withdrawn by complainant. No issues.</p>	Noted – Thank you
Corrupt practice	CO/234/18	<p>Alleged wrongful arrest and 'theft' of £10 from complainant.</p> <p>Evidence from body worn camera – forms part of complaint investigation file – clearly showing cash being counted. This does not however <u>either</u> show money being taking as alleged OR establish the overall amount of cash. As complainant unable to otherwise prove amount of cash prior to arrest, there is no supportive evidence of complaint. Appropriate medical evidence reviewed. Custody record reviewed.</p> <p>Complaint latterly withdrawn. Complaint well handled and proportionate.</p> <p>Excellent!</p>	Noted – Thank you

<p>Other neglect of duty/incivility, impoliteness, intolerance</p>	<p>CO/141/18</p>	<p>Complaint around telephone manner of officer, alleged to have been rude and abrupt. Investigation does not detail the nature of any 'rudeness' on the part of the handling officer, but implicitly accepts this, suggesting that medication being taken by the officer may have contributed to her 'shortness'.</p> <p>A letter of apology on part of Leics Police sent to complainant, by the investigating officer – accepted by complainant. Discussion with officer as part of LR advised her that monthly dip-sampling of all audio calls would henceforce be undertaken.</p> <p>The investigation was closed on this basis.</p> <p>A really good example of constructive use of LR and of complaint being used positively to improve overall standard of telephone service(s) in future.</p> <p>Excellent.</p>	<p>Noted – Thank you</p>
<p>Lack of fairness and impartiality/neglect of duty/oppressive conduct</p>	<p>CO/142/18</p>	<p>Complaint around 'removal of vehicle' without reasonable effort to contact the owner.</p> <p>A totally spurious complaint against two PCSO's who clearly acted both professionally and ethically. If the complainant had responded to an initial, reasonable request to move the vehicle from another motorist who was blocked in – the police need never have been involved.</p> <p>Rather than a complaint – I would suggest the complainant here has acted unreasonable and has wasted police time and resource.</p>	<p>Noted – Thank you</p>

Oppressive conduct	CO/171/18	Complaint around caution. Fully investigated with requests for additional information – and latterly timed out due to no response. No issues.	Noted – thank you
Neglect of duty/oppressive conduct	CO/60/18	Complaint around ‘false’ allegation of careless driving, also that this was not the first similarly false allegation made by the same officer in relation to the complainant. Complaint investigation found lack of clarity around exact date and time of alleged incident. As a result officer concerned received management action appropriately. No evidence of ‘falsified’ allegations found, or of any ongoing issue of this sort. Complainant did not consent to LR. Interesting to see how CCTV skills used to support complaint confirming whereabouts of complaint’s car at <u>time</u> of alleged careless driving. Well investigated and documented.	Noted – Thank you
Neglect of duty/oppressive conduct	CO/140/18	Complaint around investigation of neighbour dispute. LR used appropriately. Management advice given to PCSO involved. No issues with investigation detected.	Noted – Thank you
Irregularity in evidence/oppressive conduct/breach Code C PACE/improper disclosure of information	CO/400/17	Issues around gaining and following through a search warrant. A very thorough investigation is evidenced in the file – establishing that – reasonable intelligence formed the basis for application for the warrant. Once it was clear to officers on scene that the individual being sought was not present, the search was stood-down, that there was no evidence that the search had overly distressed those at the address in question – beyond that inevitable with any such search. A very competent investigation is evidenced in the file.	Noted - Thank you

Incivility, impoliteness, intolerance	CO/249/18	<p>Complaint around comments alleged to have been made by an officer whilst attending a home address in connection with domestic abuse. Investigation establishes that very mild comments made were in no way malicious. Clear evidence of discussion with complainant – but of consent to LR being withheld.</p> <p>No issues with respect to this investigation detected.</p>	Noted - Thank you
Neglect of duty/irregularity in procedure	CO/175/18	<p>Complaint around delay in progression of a case and personal and financial hardship resultant. Clear investigation detailed with action plan. Appropriately concluded under LR.</p> <p>Good work.</p>	Noted – Thank you
Neglect of duty/incivility, impoliteness, intolerance	CO/232/18	<p>Complaint around supply of gas and building dispute that (101) call taker did not appropriately record the incident or were sarcastic/unsympathetic. Under LR same management advice offered to a new member of staff. Investigation brought to a conclusion and communicated to the complainant.</p> <p>A very thorough investigation. No issues.</p>	Noted - Thank you
Improper disclosure of information	CO/244/18	<p>Complaint around disclosure of details to member of the public without consent of 3rd party complainant.</p> <p>A minor issue, appropriately investigated using LR. No issues.</p>	Noted - Thank you

Other neglect or failure in duty/Discriminatory behaviour F3-gender/Improper access or disclosure of information/Oppressive conduct/Unlawful arrest/Breach Code C Pace/Breach Code C Pace	CO/1/18	No comment.	Noted - Thank you
Failures in Duty Code C	CO/189/18	No comment.	Noted – Thank you
Neglect of duty/Organisational D&C	CO/213/17	No comment.	Noted – Thank you
Other assault	CO/147/18	No comment.	Noted - Thank you
Failures in duty Code A/Incivility	CO/106/18	No comment.	Noted - Thank you
Serious assault/Failures in duty Code C	CO/41/18	No comment.	Noted – Thank you
Original Decision/Direction and control	CO/238/18	No comment.	Noted – Thank you
Other/Neglect of duty/Failures duty Code A	CO/158/18	Local resolution, agreed. No comment.	Noted – Thank you

IPCC Non-Referral Register

5. The IPCC non-referral register was not examined on this occasion.

Implications

Financial :	None.
Legal :	The Police and Crime Commissioner has a statutory duty to ensure that the Chief Constable is applying Police Regulations .
Equality Impact Assessment :	None.
Risks and Impact :	The Commissioner requires assurance that complaints from members of the public.
Link to Police and Crime Plan :	None.
Communications :	Media releases before and after the discussion will be drafted.

List of Appendices

None.

Background Papers

Members reports from dip sampling.

Person to Contact

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